

**MINUTES OF THE
CITY PLANNING COMMISSION
JANUARY 5, 2007
J. MARTIN GRIESEL CONFERENCE ROOM
TWO CENTENNIAL PLAZA – SUITE 700
805 CENTRAL AVENUE**

CALL TO ORDER

Mr. Faux called the meeting to order at 9:09 a.m.

Commission Members:

Present: Caleb Faux, Donald Mooney, Rainer vom Hofe, Milton Dohoney, and Jacquelyn McCray
(Ms. McCray arrived at 9:12 a.m.)

Community Development and Planning Staff: Margaret Wuerstle, Bonnie Holman, Katherine Keough-Jurs, and Caroline Kellam

Law Department:

Julia Carney

APPROVAL OF MINUTES

Submission of the minutes from the December 15, 2006 Planning Commission meeting for approval.

Motion:	Mr. Mooney moved approval of minutes.
Second:	Mr. vom Hofe
Ayes:	Mr. Faux, Mr. Mooney, Mr. vom Hofe and Mr. Dohoney
Nays:	None, motion carried

CONSENT ITEMS

ITEM #1 A report and recommendation on an ordinance authorizing the sale of city-owned property at the northwest corner of Martin Luther King and Reading Road in Avondale to the Health Alliance of Greater Cincinnati.

ITEM #2 A report and recommendation on an ordinance authorizing the City Manager to enter into a Lease Agreement with CRE Corporation for City-owned property at the northeast corner of Eggleston Avenue and Pete Rose Way.

- ITEM #3** A report and recommendation on an ordinance authorizing the City Manager to enter into a Lease Agreement with Jim Peters and Elaine Peters for part of the Edwards Road right-of-way.
- ITEM #4** A report and recommendation on an ordinance authorizing the City Manager to enter into an Agreement of Lease with Port of Cincinnati, LLC for City-owned property south of Mehring Way, west of Carr Street.
- ITEM #5** A report and recommendation on authorizing the grant of a permanent easement within the Fifth Street right-of-way to Host Cincinnati Hotel, LLC for the encroachment of a public entry revolving door.

Motion: Mr. Mooney moved approval of Consent Items #1 - #5.
Second: Mr. vom Hofe
Ayes: Mr. Faux, Mr. Mooney, Mr. vom Hofe and Mr. Dohoney
Nays: None, **motion carried**

DISCUSSION ITEMS

Ms. Wuerstle explained to the Commission that items #6 and #7 were requested to be removed from the agenda. MSD still had issues with the subdivision and did not want approvals issued until they had a chance to work through the outstanding issues. The Planning Commission agreed to remove items #6 and #7.

- ITEM #8** A report and recommendation on the study of Planned Development District #13 (PD-13), Marjorie P. Lee Home, that was requested by the City Planning Commission on January 6, 2006.

Ms. Katherine Keough-Jurs, Senior Planner, presented this item.

BACKGROUND:

The Marjorie P. Lee home, located at 3550 Shaw Avenue in Hyde Park, is designated in the Cincinnati Zoning Code as Planned Development District #13 (PD-13).

On February 13, 2004 the City of Cincinnati adopted a new Zoning Code in which all Transitional zone designations were re-zoned as Planned Development (PD) Districts, with the intention of studying each PD district at a later date to determine a more suitable permanent zoning classification.

On January 6, 2006 City Planning Commission extended the concept approval for Planned Development Districts that lacked Final Development Plans for a period of one year, until February 13, 2007.

Staff conducted a review of these 37 PD Districts to determine the status of each district. Evaluating criteria included: 1) Origin (T Zone, PUD or SHO District); 2) Evidence of an

approved Final Development Plan; 3) Status of the development with regard to proposed new construction, or 4) a project has been built out and completed. During the study, the Law Department and Planning Staff determined that if a covenant or Final Development Plan was on file for the property, then a zone change would not be necessary. The covenant or the Final Development Plan would serve as the zoning guidelines for the property.

EXISTING CONDITIONS:

The parcels within the boundaries of PD-13 are owned by Episcopal Retirement Homes, Inc., (ERH) and are part of the campus for the Marjorie P. Lee retirement home. The property surrounding PD-13 is entirely zoned SF-6 and is mostly single family residential in use.

On December 16, 1970 this property was re-zoned from R-3 Residential to R-3(T), a Residential Transitional zone. The purpose of the zone change was to construct an addition to the Marjorie P. Lee Home, an existing non-conforming use. Since that zone change, ERH has applied for and received four separate decisions from the City of Cincinnati Department of Buildings and Inspections. These decisions include: a 1971 Certificate of Occupancy for the 128 unit addition, a nursing care wing, and other accessory uses; a 1976 Certificate of Occupancy that modified the original development plan to establish nine additional off-street parking spaces; a 2002 decision that denied a request for construction of a three-story addition to be built within 25 feet of the rear property line, and approved a request for a 14-space parking lot; and, a 2003 decision approving a request for construction of a three story addition. The three-story addition approved in 2003 includes a wellness center, a new dining area, and a meeting room for residents.

PUBLIC COMMENT:

The Planning Staff met several times with ERH, along with surrounding property owners at regularly scheduled meetings between the two groups. Representatives from the Hyde Park Neighborhood Council were in attendance at the meetings and assisted in crafting the language used in the Final Development Plan.

DISCUSSION:

PD-13, Marjorie P. Lee Home, originated as a Transitional zone. The development is not built-out, but there are approved plans for an addition to the building. These plans are on file with the Department of Buildings and Inspections.

Because this site has been controversial to the surrounding neighborhood dating back to the 1970 zone change to the Transitional zone, City Staff sought neighborhood input during this zoning study. This was accomplished through an existing neighborhood meeting; Administrative Staff from the Marjorie P. Lee Home hold regular meetings with surrounding property owners to discuss the building project and other neighborhood concerns. These meetings allowed representatives from both ERH and the residents to give comment and understand the purpose of the study.

The meetings resulted in agreement that officially designating the approved building plan as the Final Development Plan was more beneficial to both ERH and the Hyde Park neighborhood than a full zone change. Both parties also agreed that the Final Development Plan should include text that reiterated that all conditions of any past decisions of the Department of Buildings and Inspections would remain in place.

Also, all parties agreed to additional regulations guiding major and minor amendments to the Final Development Plan. Section 1429-21 *Final Development Plan Amendments* authorizes the Director of the Department of Community Development and Planning to authorize “minor adjustments that revise size and location of drainage ways, sewers, roadways, retaining walls or similar features and to substitute landscape materials in light of technical or engineering considerations; and, structural dimensional changes provided that they do not increase building heights by more than 15 feet, floor area by more than five percent, decrease the number of parking spaces by more than ten percent or allow buildings closer to perimeter property lines.” All parties agreed that even minor changes to the landscaping plan, height, or exterior plan of the building could have a great impact on the surrounding properties. For that reason, all parties agreed to four additional changes that would be treated as major amendments, thus requiring public notification and approval by the City Planning Commission.

CONCLUSIONS:

1. Designation of the approved building plan for the addition to Marjorie P. Lee Home as the Final Development Plan for PD-13 would be most beneficial to both ERH and the surrounding neighborhood.
2. All conditions of any past decisions of the Department of Buildings and Inspections would remain in place as a part of the Final Development Plan.
3. The addendum of additional changes to be considered as major amendments should be a part of the Final Development Plan.

RECOMMENDATION:

The Community Development and Planning Department staff recommended that the City Planning Commission take the following action:

Approve Planned Development #13 (PD-13), Marjorie P. Lee Home, to remain in place with the approved plans, past decisions, and addendum acting as the Final Development Plan serving as the zoning regulations for the PD district.

DISCUSSION

Ms. Keough-Jurs gave a brief history of Planned Development #13, Marjorie P. Lee Home, and presented a map to illustrate the area. Ms. Keough-Jurs stated that staff felt that retaining the PD designation would be in the best interest of the Marjorie P. Lee Home, the community and the City. She said regular neighborhood meetings were held and that all parties were in agreement with the staff recommendations.

Mr. Carl Uebelacker, community resident, stated that he supported the staff recommendations.

Motion: Mr. Mooney moved approval of Item #8
Second: Ms. McCray
Ayes: Mr. Faux, Mr. Mooney, Mr. vom Hofe, Mr. Dohoney, and Ms. McCray
Nays: None, **motion carried**

OTHER BUSINESS

ITEM #9 Approved and Adopted Text Amendments

Ms. Margaret Wuerstle, Chief Planner, presented this item and explained that this was a list of all of the zoning text amendments that had been approved by the Planning Commission and adopted by City Council since the Zoning Code was adopted in January 2004.

APPROVED AND ADOPTED TEXT AMENDMENTS

§1400-27-S2	Provisions and Rules for Measurement.
§1401-01-A14	Awning.
§1401-01-B9.	Building. (Ord.237-2005)
§1401-01-C	Canopy.
§1401-01-C17.	Contractor's Storage. (Ord. 240-2005)
§1401-01-D9.	Drive-Through Facility/Establishment. (Ord. 243-2005)
§1401-01-E2	Establishment
§1401-01-F4.	Fence. (Ord. 245-2005)
§1401-01-G5	Gross Floor Area
§1401-01-H1.	Height, Building (Ord. 247-2005)
§1401-01-M3	Marquee
§1401-01-M3.	Medical Services and Clinic. (Ord. 235-2005)
§1401-01-O.	Office.(Ord. 238-2005)
§1401-01-O6	Definition: Outdoor eating and/or drinking area

§1401-01-O6	Definition: Outdoor entertainment.
§1401-01-P10	Definition: (add art studio to Personal Instruction)
§1403-07.	Development Regulation – Single Family Districts. (additional regulation section numbers Ord. 239-2005)
§1405-05.	Use Regulations- Residential Multi-family Districts. (RMX Ord. 260-2005)
§1405-09.	Trucks; Loading and Service Areas. (away from residential Ord.241-2005)
§1409-07.	Schedule: Use Regulations Commercial Subdistricts.(Radio &TV antenna)
§1409-07	Schedule: Use Regulations Commercial Subdistricts. (drinks establishments Ord. 236-2005)
§1409-09.	Commercial Subdistricts (setbacks)
§1409-27.	Outdoor Storage. (Ord. 242-2005)
§1409-29.	Outdoor Retail Sales. (location of outdoor sales Ord.244-2005)
§1410	New Chapter for Urban Mix
§1411-13	Maximum Building Height Overlay (DD- Banks)
§1419-21	Limited or Full Service Restaurants and Drinking Establishments.
§1419-23	Loft Dwellings.
§1421-01.	Accessory Residential Structures. (location Ord.246-2005)
§1421-33.	Fences and Walls. (max. height Ord. 248-2005)
§1425-03.	Requirements for Off-Street Parking and Loading.
§1425-17.	Units of Measurements.
§1425-19.	Off-Street Parking and Loading Requirements.
§1425-19A	Parking Regulations for outdoor areas

§1425-23	Reduced Parking
§1425-33.	Additional Parking Lot Standards. (wheel stops Ord. 249-2005)
§1425-37.	Surfacing, Drainage and Grade of Parking and Loading Facilities. (surfacing and maintenance Ord 250-2005)
§1427.	Sign Chapter (entire)
§1427-01	Purposes (Billboard consistency)
§1427-39.	Sign Standards for the M, RF-R, RF-C and RF-M Districts. (add UM)
§1427-45.	Maintenance, Abandonment and Removal. (signs Ord. 251-2005)
§1431-17.	Standards for Review. (IDC timeframes Ord. 253-2005)
§1431-19.	Review of Permit Applications. (IDC time frames Ord. 253-2005)
§1435-35.	Relationship to Variance, Special Exceptions and Conditional Uses. (HCB can grant variances, etc. Ord. 254-2005)
§1441-11(a)(2)	Certificates of Occupancy and Use. (new CO Ord. 255-2005)
§1443-05.	Public Hearing Schedule and Notice. (100’ radius Ord. 256-2005)
§1445-07.	List of Allowable Special Exceptions (chapter reference corrected Ord. 257-2005)
§1445-07	List of Allowable Special Exceptions
§1445-09.	Parties Entitled to Seek Variances, Special Exceptions and Conditional Uses. (City agency or dept. may apply for a variance Ord 258-2005)
§1445-11(d)	Procedures for Applications for Variances, Special Exceptions and Conditional Uses. (City dept. or agency Ord. 258-2005)
§1447-05(b)	Nonconforming Structures.(movong Ord. 259-2005)

ITEM #10 Text Amendments for future consideration.

Ms. Margaret Wuerstle, Chief Planner, presented this item.

Text Amendments for Future Consideration

- 1) Make all limitations subject to conditional use approval as requested by the Hearing Examiner.
- 2) **1405-05**. - Use regulations – Residential Multi Family Districts Accessory uses: “P” under Commercial Services in RMX.
- 3) **1431-05** - IDC Section – If we cannot use it – take it out.
- 4) **1431-05 (a)** -”add map to “or zoning text amendments are being considered.”
- 5) **Schedule 1445-04** - Locating parking should say 1409-25 not 1409-27.
- 6) **1469-122** - of old code - Did not get carried over to new code “construction without main building” – what if there is just a garage on lot – ie House was torn down and garage is left. Something should be put in 1421 that talks about accessory structures.
- 7) **1429-15** - Notice shall be given at least 14 days in advance of the Cincinnati Planning Commission meetings to property owners within 400 feet and the Community Council representing district in which PD is located.
- 8) Lighting Standards: add standards.
- 9) Plan Standards – accept, approve, adopt.
- 10) Circular front yard driveway not regulated by zoning code and it should be
- 11) **1447**- Legally existing non-conforming lots – if meets all setback requirements with exception of lot width then they are exempt from width regulation and can be built upon (grand fathered in as buildable lot).
- 12) **1409-07** – Use regulations – Commercial subdistricts – Drinking establishments are a permitted use in CCP. Put a “P” in the blank (typo in last round of changes).
- 13) Add administrative waivers for dimensional aspect up to 10%.
- 14) **1409-27** Outdoor facilities large outdoor storage.
- 15) **1409-29** Add accessory and incidental to the principal use (page 94).
- 16) Add section for Auto Sales and/or outdoor sales.
- 17) **1413-05** Use regulations-in chart page 126 – residential not permitted in MG on page 127 lofts are permitted as a commercial use but then refers to 1419-23 page 157.
- 18) **1401-01-L3** – loft dwelling must contain a studio, office, business. Need to better define loft dwelling and live workspace. Does loft have to contain, office, business etc. (fix definition). Also on page 158, it says a loft dwelling may contain a studio office business etc.
- 19) Need Mural definition – also there are no regulations for murals.
- 20) **1401-01-S14** – definition of “Structure” – Is an in-ground pool a structure?

- 21) Need an explanation of how to measure a retaining wall.
- 22) Electronic Changeable message boards.
- 23) Take out all “etc.”
- 24) Take out all “prefers.”
- 25) **1441-11 (a) (2)** Rewrite – take out “now or hereafter located, constructed, reconstructed, enlarged or structurally altered, except for single family dwelling purposes” not accurate with SF DU.
- 26) Consider adding the following to your zoning code: Under the land use category of “Parks and Recreation Facilities” 1425-19-A only requires off street parking for indoor areas. This means there is no parking requirement for “playing fields, courts, swimming pools, golf courses,” etc. Was this an oversight?
- 27) The Law Department has confirmed the interpretation below and there is no relief available through the Hearing Examiner process. Also since the limitation is quite specific, any change would constitute a use variance.. This might be a good time for you to identify sections of the code where you believe relief should be available but is not and go to the Planning Commission. For example, maybe all limited uses should be allowed to get conditional use approval when the limitation is exceeded and not just the few specified. Moreover, there are sections of the code that are not “dimensional standards” and not eligible for a variance, but might be included in the list of allowable special exceptions 1445-07 so relief can be considered.
- 28) Subdistricts – take all reference to Subdistricts out (i.e. is SF-20 a Subdistrict or a District?)
- 29) Define live work Districts.
- 30) Can a person submit an application for a permit for 2 different uses on the same property (2 different applications)? If not there need to put something in the code. (Carwash/check cashing place in Avondale at Reading and Paddock).
- 31) Moving signs in R-O-W.
- 32) Typo in section **1445-31** - Appeals. In the second line, “ Board of “ should be deleted, as Chapter 1449 is titled Zoning Appeals. I would also add in the first line after Zoning Board of Appeals or City Council pursuant to ... That is because other decisions affecting another governmental entity are appealed to City Council as outlined in Chapter 1449-01. So corrected Section 1445-31 would read: Any party with standing may appeal to the Zoning Board of Appeals or City Council pursuant to Chapter 1449, Zoning Appeals, within 30 days of the decision of the Zoning Hearing Examiner.
- 33) **1401-01-H** – definition of height – “measured from grade” what if they add berm.
- 34) Issue of temporary storage/moving modules.
- 35) Agricultural uses in residential zones Chapter 1403.
- 36) **1443-05 vs. 1441-(c)** - make consistent either 100 ft. radius or abutting.
- 37) Vehicles Accommodation – Driveways parking refers to the parking chapter but it refers to the wrong section # it should not read 1425-17, it should read 1425-15.
- 38) References to section #'s in the Driveway and Parking Section are not correct.
- 39) **1421-23 (a)** Provides modification to side yard setback requirements when a corner lot is involved. The required setback is increased to at least one-half of the front yard requirement when the side lot line adjoins another side lot line at the

- rear of the subject property. What happens when the side lot line adjoins a front lot line, either directly or across an alley, at the rear of the subject property? In this case seems the side yard requirement of the subject property should be increased to be equal to the front yard requirement of the adjoining property.
- 40) **1421-23 (b)** Spelling typo: "on-half" should be changed to "one-half"
 - 41) **1421-23 (b)** Irregular Side Yards. Where the side lot line is irregular or where the side lot line is not parallel to the building line, the average side yard width must conform to the side yard requirements, provided the point of least width is no less than five feet wide or the point of least width is no less than one-half the side yard requirement, whichever is greater.
 - 42) **1471-232 (b)** Old Code Section mentions paved access drives.
 - 43) **1425-37 (b)** New Code Section mentions parking areas, maneuvering aisles and loading spaces that must be paved but does not mention access drives. Can that be amended to clarify that access drives are included?
 - 44) The list of allowable special exceptions 1445-07 has some incorrect citations. There were last minute changes to certain chapters, the references in the above-mentioned chart did not get adjusted.
 - 45) **1425-19 - Parking Regulations** – There is no requirement listed for RMX districts.
 - 46) Here are the sections where the word "enclosure" is still found (it is possible that I have missed some but this is what I found: **1403-05 L3, 1411-05 L9, 1401-01 F4 and 1421-35 (b) and (d)** This one is not a problem as there is some definition to it. An easy fix to this might be to add a few words to these sections that include parameters. ...such as, "an enclosure of XXXXXXX material (solid wood fencing, shrubbery, etc) at a minimum height of X feet, maximum X feet.
 - 47) **1421-35 (e)** page 174 height no taller than 8 feet vs. 1421-33 fences maximum height is 6 feet.
 - 48) **1421-35** – capacity issue.
 - 49) **1409-25 - Location of parking**; add sentence to this paragraph "all districts must comply with chapter 1425-15 location of parking..."
 - 50) **1409-29 Outdoor retail sales** – Should read Outdoor retail sales area accessory to the principal use must be located, developed and operated in compliance with the falling standards.
 - 51) All DD Maps should be rotated and enlarged.
 - 52) Under **1417-03 -Use Regulations** – Institutional Residential Districts, the Group Residential should include and list all categories of group residential.
 - 53) **1445-07** - Add the non-conforming use regulations to the special exception section.
 - 54) **1447-** non-conforming uses and structure. What about non-conforming lots?
 - 55) **1447-03** - Add (e) legally existing non-conforming lot of record.
 - 56) **1447-11** - Substitution rights in CN-M and CC-M districts - does not make sense to allow mixed substitution rights in pedestrian district (it amounts to a use variance).
 - 57) **1405-09** "preferred."
 - 58) **1411-39 (g)** - Marquee signs – How can counter people with no architectural background decide (#2) "integrated architecturally into the primary structure"?
 - 59) **1413-09 - (page 130)** - Another Department has to make the determination.

- 60) **1415-11** - Rewrite to be understandable.
- 61) **1400-21 (b)** - scale on the zoning map?
- 62) **1400-27 (L)** - Lot width - How do you measure a panhandle lot?
- 63) **1401-01-(a) 14** – Automobile Holding Facility (towing Lot?)
- 64) Congregate Housing -elderly housing. Dormitory for older people.
- 65) **1401-01-S4** - Sexually Oriented Business – Semi nude model studio?
- 66) **1401-01-V3** – “Heavy Vehicle” put weight in definition. Also, does this include SUV’s?
- 67) **1413-09** - Driveway restriction - need distance from intersection.
- 68) **1415-19** – Ohio River Bank Area – what does this mean?
- 69) **1419-15** – Fuel Sales -1419-15 (b) - Does this require a canopy or is it only if one is constructed?
- 70) **1419-17 (g)** - Section 3 B of subtitle B of the environmental Planning Community Right to know Act of 1986, 42 U.S.C. Section 11023. Where is this document?
- 71) 1419-23 - Statement of disclosure – is this a letter from the owner to the tenant and does it have to be kept in Zoning Division files?
- 72) **1421-05 (c)** - What is narrow? If it doesn’t meet (a) and (b)?
- 73) **1421-07** Max projections into yards (feet) corrections needed.
- 74) **1421-21** - Increased front yard needs a letter (C) and this section needs to be consistent with section 1421-23 (C) side yards by adding “ or fraction thereof” to side yards.
- 75) **1421-33 (b)** - Max Height add RMX to this.
- 76) **1421-39** – Exterior Lighting “energy efficient” is there a standard for this? Also max. height 20 feet – Does this apply to residential district in someone’s backyard?
- 77) **1437-09 S1 and S2** - take out reference to advertising signs.
- 78) **1441-07** - Certificate of Compliance – When is this issued – when in the process?
- 79) **1441-09** - Time limits for zoning approval - need a (C) added to this section. Also when does a building permit expire?
- 80) **1443-05** – Public Hearing schedule and notice - change abutting property owners to property owners within 100 feet radius.
- 81) **1445-11** - Public Hearing /Waiver needs a (d) added.
- 82) **1449-01**– Appeals to Council –What about IDC appeals - page 272,Section 1439-15.
- 83) **Section 1400-20** - This looks like a building permit issue and not a zoning code issue. It may not represent the state of the law, either.
- 84) **Section 1401-01-H1** - I know Reggie wanted this change but did he ever say in response to what problem? Though I think, the change may make sense.
- 85) **Section 1401-01-13** - Live/Work Unit - No reference to Live/Work Unit in the CZC. So why is this needed? Confusing Live Work Space with Loft Spaces See page 127 Section 157.
- 86) **Section 1401-01-L4** - Live Work district. This was made part of the code at the request of City Council and was never intended to be instituted as a zone change, since it is just an allowable use within a zone.
- 87) **Section 1401-01-L5** - Loft Dwelling Unit - Loft Dwelling units are not live work spaces.

- 88) **1409-29** - Why not just remove “wherever possible” .
- 89) **1421-33** - The additions to maximum height are just the types of issues that need a public hearing. I suggest adding fences and walls as a special exception 1445-07.
- 90) **Section 1425-03** - Commercial parking often overflows into residential neighborhoods, creating conflicts. Commercial uses should be required to provide parking for their customers instead of requiring the neighborhoods to absorb the extra parking needed. Vacant Buildings become obsolete.
- 91) **Section 1425-27** - The solid wall was required to block headlights from shining into neighboring homes.
- 92) **Fix 1447-05** or add Section to 1427.
- 93) **Section 1447-05 (b)** - Non-conforming sign is a structure.
- 94) Vehicle Repair –what is considered a heavy vehicle?
- 95) **Section 1419-21 (c)** decorative wall or fencing – should there be more specific language concerning the containment of litter.
- 96) **Section 1421-07**- Will a/c units be prohibited from side front yards if they are within 1 foot of the main structure; it is being interpreted as being part of the main structure.
- 97) **Section 1443-05** - Add within 100-foot radius of subject property.
- 98) **Section 1445-11** - Add within 100-foot radius of subject property.
- 99) Covenants for Variances and Bonuses in the DD.
- 100) **I-R Chapter in New Code Section 1417-14 (f)** - Underground Parking – this states that underground parking garages can be located in a buffer yard if approved as a conditional use by the Director of Buildings and Inspections. Is this a mistake or is the director doing conditional use hearings for this particular issue?
- 101) **Schedule 1400-15** - District Hierarchy – Add UM District.
- 102) **Page 63 –1405-03 (a)** “ min lot area for every Dwelling Unit is 2000 square feet.
- 103) **1409-09 - Footnote 2** - Side yard need to change to rear yard.
- 104) **1401-01-F4** – “Screening” is used in definition. That would imply shrubbery and plantings can be used. Correct? Also, nothing says not to use plastic tarps, beer signs, etc. (a customer in Madisonville argues that the code does not spell it out. He is using blue tarps, metal beer signs and orange barrels for his fence.)
- 105) **1409-29 (a)** – “Wherever possible” leaves this section open to interpretation. Is used in other places in code.
- 106) **1411-39 (g) (2)** – “architecturally integrated” leaves it open to discretion by ZPE (Zoning Plan Examiner).
- 107) **1415-09** – Side least width/sum for RF-C and RF-M – must be a mistake –cannot read “10” or 5” – needs to be sets of numbers for each.
- 108) **1415-11**- While this section may have been in the last code, it is extremely difficult to interpret. Why can’t this be clarified?
- 109) **1417-14 (f)** - Does Director of B&I do hearings?
- 110) **1417-15** – Signs in I-R – Is this being rewritten?
- 111) **1419-15 (b)** – Does not make it clear that a canopy is required. Planning staff says this is intention but it needs to be clarified.

- 112) **1419-21 (a)** - Where is the provision for the 120-day temporary outdoor eating process?
- 113) **1419-21 (c)** - Need height listed.
- 114) **1421-07** - Air conditioners, compressors might have construction related issues if cannot be in side yards.
- 115) **1421-21 vs. 1921-23 (c)** - Increased front yard is different for front and rear. Should be the same.
- 116) **1421-33-(b)** – Why is 6 feet the maximum for all districts. Manufacturers cannot use 6 feet height for safety and security. Not at all realistic. Why put owners through hearings for this?
- 117) **1421-39** – 20 feet high light pole in residential backyards for basketball courts, etc?
- 118) **1427-41** – Does this conflict with inspection procedures.
- 119) 1437 – What about sign face changes? Exempt from hearings?
- 120) **1441-03** What decisions does the B&I Director write? Isn't the Hearing Examiner doing all hearings?
- 121) **1443-05 vs. 1441-(c)** – Should be the same.either 100 feet or abutting
- 122) **1437-09 S5** – Color, shape, scale, lightinga lot of discretion for the ZPE to judge. Same as 1437-09 AS1, last bullet point.
- 123) Word search for “Preferred” to catch all of these.
- 124) Word search for “wherever possible”.
- 125) **1407** – Animal services permitted in OG/limited in all C zones/ see 1419-05. This use is permitted in OG but limited by 1419-05. The chart should read “L”.
- 126) **1409** – Commercial Districts – Where does “Lawn Care” services fit?
- 127) **1401-01-P18** – Only provision for an artists is 1401-01-P18, production industry/artisan. This use only starts in the CC-A Districts. Should be permitted in O Districts.
- 128) **1427-03-B & 1427-13** - Signs – temporary banners are not permitted for commercial uses. Many calls. Are regular sign - not meeting needs of new businesses? Need banner before permanent sign.
- 129) **1421-01 (a) & (c)** – “etc” should be taken out-the language more clear to indicate that garages are not permitted in front and side yards. (c) Should indicate 800 sq ft is the accumulative square feet not 800 each structure.
- 130) **SF & RM** – Day Care Centers (For Adults) are not permitted in SF or RM Districts- Why child but not Adult? Source of many complaints from public.
- 131) **Grounds signs/instructional signs.** McDonalds adding another drive-thru and adding new set of menu signs. Are these instructional signs (not regulated?) or on-site ground signs? Code does not address these types of signs. This issue may come up quite often.
- 132) **Taxi and Limousine Services**
- 133) **§1433-17 Calculation of building envelopes for hillsides.** The code requires the houses on the same street be used to calculate front, side and rear yard setbacks but has no similar requirements for determining allowable heights.

DISCUSSION

Ms. Wuerstle stated that the listed items were brought to her attention by various sources and had not yet been evaluated. She explained that she had kept a list of all requests for zoning text amendments since the Zoning Code was adopted in January 2004.

Mr. Faux stated that he felt a review of the issues concerning the Zoning Code would be appropriate and that there were both minor and major concerns. He said some of the larger issues concerned philosophy and methodology. He added that the Zoning Code was written by the Planning Division, passed by the City Council and then administered and interpreted by the Department of Building and Inspections (B&I). He has been troubled by some of the interpretations that have been made by B&I. He said that flexibility was built into the Zoning Code for unique situations and that this flexibility needs to be used wisely.

Mr. Faux stated that there were two ways to address the Zoning Code issues:

1. Direct staff to study the issues, prepare a staff report and return to the Planning Commission with their recommendations.
2. Create a review committee comprised of staff, Planning Commission members, Legal Department, Building and Inspections, Hearing Examiner and interested community members.

Mr. Mooney stated that he would support creation of a review committee.

Mr. Faux stated that thus far, modifications to the current Zoning Code had been done piecemeal. Ms. Wuerstle stated that she supports creating a comprehensive package of changes to make the Zoning Code clearer and cleaner.

Mr. Carl Uebelacker, resident, stated that he has long been involved with the Zoning Code. He suggested that the process start with eliminating typographical errors. Then, he suggested the creation of a committee that would group similar items and address the changes in manageable portions. He offered his participation and assistance with the project. Mr. Mooney stated that he agreed with Mr. Uebelacker and suggested that the Chairman meet with Ms. Wuerstle to create a committee. Mr. Faux, Mr. Mooney, Ms. McCray, and Mr. vom Hofe would work with the committee when their schedules permit. Mr. Faux and Ms. Wuerstle agreed to meet at a later date to discuss the committee creation.

Ms. McCray suggested that staff be directed to study land use patterns since the adoption of the new Zoning Code. She further suggested that staff provide the Planning Commission with maps illustrating past and present land use patterns in conjunction with the Zoning Code amendments.

OTHER BUSINESS

Mr. Faux stated that there was still a vacancy on the Planning Commission and would like to have the position filled as soon as possible. Mr. Faux and Mr. Mooney both indicated that they had presented names of Planning Commission candidates to the Vice Mayor and the Mayor.

Motion: Mr. Mooney moved to direct staff to send a letter to the Mayor requesting that the position be filled.
Second: Ms. McCray
Ayes: Mr. Faux, Mr. Mooney, Mr. vom Hofe, Mr. Dohoney, and Ms. McCray
Nays: None, **motion carried**

Mr. Faux stated that in the budget process, City Council modified the budget to include approximately \$5000 as a placeholder to hire a Planning Director. The transfer of staff to a new Planning Department was eliminated.

Mr. Dohoney stated that the \$5000 was not a placeholder but funding to do a nationwide search for a Planning Director who would work with the City Manager to design a new Planning Department. He stated that he had instructed the Human Resource Department to start the search process.

Mr. Mooney stated that City Council had many choices to make during the Budget process and the search for a Planning Director shows progress. He added that in the past, Planning Commission Members were allowed to participate in the hiring process of a Planning Director and hoped that the administration would continue to involve the Commission in the process. Mr. Dohoney stated that the request was noted.

ADJOURN

Motion: Mr. Mooney moved to adjourn
Second: Ms. McCray
Ayes: Mr. Faux, Mr. Mooney, Mr. vom Hofe, Mr. Dohoney, and Ms. McCray
Nays: None, **motion carried**

Margaret A. Wuerstle, AICP
Chief Planner

Caleb Faux, Chair

Date: _____

Date: _____